

DRAFT

PARK COUNTY US HIGHWAY 89 SOUTH – EAST RIVER ROAD – OLD YELLOWSTONE TRAIL ZONING DISTRICT REGULATIONS

I. TITLE

These regulations and the accompanying map(s) shall be known as, and shall be cited and referred to as, the “Park County US Highway 89 South – East River Road – Old Yellowstone Trail Zoning District” in accordance with and exercising the authority of Section 76-2-201, MCA.

II. PURPOSE

- A. The purpose of these regulations is to promote the public health, safety, and general welfare of the community;
- B. To protect the scenic, historic and cultural resources of the Paradise Valley area as outlined in the Montana Department of Transportation Paradise Valley Corridor Planning Study; and,
- C. To create a tool that will allow the County to respond to and address evolving land use issues while recognizing and maintaining the value of Park County’s unique natural amenities as outlined by Objectives 16.3 and 17.2 of the Park County Growth Policy.

III. AUTHORITY & ADMINISTRATION

- A. The Park County US Highway 89 South – East River Road – Old Yellowstone Trail Zoning District is adopted under the authority of Section 76-2-201, MCA.
- B. The Planning Department is designated by the County Commissioners of Park County, Montana, to administer these regulations and is hereby referred to as the Zoning Administrator.

IV. SEVERABILITY

If any provision of this District is held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provision, and to this end the provisions of this District are declared to be severable.

V. BOARD OF ADJUSTMENTS

The Board of County Commissioners shall create and appoint a Board of Adjustment. The Board of Adjustment shall consist of five members of the public residing within the boundaries of the District. Board members shall serve without compensation. Board members shall be appointed for a term of 2 years, with staggered terms. The Board of Adjustments will review and determine all variance requests from the Design Standards outlined under section X of these regulations.

VI. APPLICABILITY

- A. This District applies for 3/4 of a mile on either side of the centerline of US Hwy 89 extending South from the city limits of Livingston, MT and terminating at the northern edge of the Resort Tax District boundary for the census designated area of Gardiner, MT. The District also includes 3/4 of a mile on either side of East River Road, Old Yellowstone Trail South Road and Old Yellowstone North Road, and all areas between. An official GIS Map shall be created and references for the purposes of this District.
- B. In their interpretation and application, the provisions of this District may be regarded as the minimum requirements for the protection of the public health, safety, and general welfare.
- C. This District is not intended to abrogate or annul any other regulations applicable to a tract of land, including but not limited to, zoning, building codes, private covenants, or floodplain regulations.
- D. Where the provisions of this District impose a greater restriction on land, buildings, or structures than is imposed or required by such existing provisions of law, ordinance, resolution, contract, or deed, the provisions of this District shall control. The powers, duties, and terms of office, including hearing appeals and variances are set forth in Section 76-2-221 through 76-2-228 MCA.

VII. DEFINITIONS

1. Abandoned Sign- Any sign which for a period of at least thirty days or longer no longer correctly directs or exhorts any person or advertises a bona fide business lessor, owner, product, service or activity.
2. Adjacent Landowner: For the purpose of these regulations, an Adjacent Landowner is the owner of any parcel adjoining a property proposing a variance from the Design Standards, regardless of any easement, stream, river or road right-of-way.
3. After-the-fact Zoning Compliance Permit: An application for a zoning compliance permit submitted after a sign has been erected, constructed, reconstructed, altered, repaired, converted or maintained following the adoption of the District and without the required zoning compliance permit.
4. Alter: For the purpose of these regulations, Alter means to modify, change, increase in size any sign or support structure for a sign. Does not include general maintenance of a sign or structure.
5. District- Park County US Highway 89 South – East River Road – Old Yellowstone Trail Zoning District
6. General Maintenance: To maintain a sign(s) without modifying any portion of the sign or support structure.
7. Nonconforming Sign- A sign that does not conform to the requirements of this District but was lawfully in place at the time of the adoption of this District.
8. Off-Premise Sign- A sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service or product not principally located or primarily manufactured or sold on the premises on which the sign is located.

9. On-Premise Sign- A free-standing sign or sign attached to the side of a building which identifies or advertises a business, person or activity, and installed and maintained on the same premise as the business, person, or activity.
10. Sign- Any medium or visual communication, including its supporting structure and source of light, which is used or intended to be used to attract attention to a location or subject matter for advertising, instruction, or informational purposes.
11. Temporary Sign: Any sign, handbill, or poster which is placed on a property which is not designed or intended to be placed permanently.
12. Variance- A grant or relief from the design standards of this District which would permit construction in a manner that would otherwise be prohibited by these rules.

VIII. REQUIREMENTS OF DISTRICT

- A. This District will only regulate signs within the district boundaries. Off-Premise signs are prohibited on any property within the district. On-Premise signs must meet the design standards outlined in these regulations, and all On-Premise signs shall not be erected or constructed until the landowner(s) applies for and receives a Zoning Compliance Permit. No other land use restrictions apply in this district other than those relating to Signs.
- B. Temporary Signs: Temporary Signs are allowed within the District for a period of no more than sixty days and only if the Sign is less than 9 square feet, does not have a lighting source, and if no point of the Sign is higher than six feet above adjacent grade.
- C. Off-Premise Directional Signs: Off-premise directional signs are permitted within the district of no more than eight (8) square feet of Sign Area per Sign Face, with no more than two Sign Faces, and mounted with its highest point no higher than ten (10) feet above the existing grade and a minimum of ten (10) feet from the nearest property line. Off-premise directional signs shall carry only plain text messages and directional arrows, and shall be associated only with businesses or properties within the US HWY 89 Zoning District. Off-Premise Signs shall receive a zoning compliance permit prior to implementation.
- D. Exemptions: the following signs are exempt from the requirements of these regulations:
 1. Government and official signs and notices
 2. Address signs
 3. Signs smaller than two square feet, such as private property, no hunting, no trespassing signs.
 4. Signs located within the district that are not visible by line of sight from any portion of the US HWY 89 right-of-way, East River Road right-of-way or Old Yellowstone Trail North and South right-of-way.
 5. Archway: An Archway that spans a road or driveway at the entry point of a property is exempt from the district regulations, provided that the archway is made of natural materials, such as log, rock and wood, and limits the amount of information to the name of the property, address signs or symbols

IX. PREEXISTING NONCONFORMING SIGNS

A Nonconforming Sign that was in place before the adoption of this District may continue as long as the Sign is not altered or replaced, or does not become an Abandoned Sign, either of which would require the Sign be removed or brought into conformance with the requirements of this District and approved through a zoning compliance permit.

X. DESIGN STANDARDS:

All On-Premise signs shall meet the standards outlined in this section. Landowner(s) shall apply for, and receive a Zoning Compliance Permit prior to construction and placement of a sign within the District:

- A. Height: All free-standing signs (On-Premise) shall not exceed ten feet (10) in height from the ground level, including any framing/foundation support structures, unless placed on the side of a building. If placed on the side of a building the sign may exceed the ten-foot height requirement but shall not be located on a roof or top of any structure.
- B. Size: All signs shall be limited to fifty square feet.
- C. Materials: All signs shall be made of materials that are non-reflective. Electric, digital displays and lighting of any kind is prohibited.
- D. Setback: All signs shall be set back a minimum of twenty-five feet from any property line and shall not be located within any privately owned road right-of-way.
- E. Public Right-of-Way: No privately owned sign, or sign advertising a privately owned business, shall be located within a county right-of-way or Montana Department of Transportation-owned right-of-way.

XI. Zoning Compliance Permit

All property owners(s) shall receive a Zoning Compliance Permit prior to the construction/placement of any On-Premise signs located within the District.

- A. Landowner(s) shall submit a Zoning Compliance Permit application (in electronic form) and applicable fee to the Park County Planning Department.
- B. The Zoning Administrator shall review the application for completeness and determine compliance with the District Regulations within fifteen working days of receipt of the application.
- C. Incomplete or noncompliant applications shall be denied by the Planning Staff.
- D. Approved applications shall be filed electronically in the Planning Department and the landowner shall be notified of the approval in writing. The location of the approved sign shall be included in the District GIS.
- E. Applicants may appeal any determination made by the Zoning Administrator to the Board of Adjustment as outlined under Section 76-2-226, MCA

XII. VARIANCES

A. A Variance from the Design Standards of this District may be permitted if approved by the Board of Adjustments. An approved Variance would permit construction in a manner otherwise as required under the Design Standards, and shall not apply to any other sections within these Regulations. Criteria for granting a Variance:

1. The Variance is the minimum allowance necessary to afford relief from Design Standards.
2. Exceptional or extraordinary circumstances apply to the property that do not apply generally to other properties in the same zone or vicinity and that result from circumstances which the owners of the property have had no control since adoption of this District;
3. The Variance is necessary for the preservation of a property right of the applicant that is substantially the same as that possessed by owners of other property in the same area; and,
4. The Variance would not be materially detrimental to property in the vicinity in which the property is located.

B. Variance Procedure:

1. Written applications for Variance shall be filed with the Park County Planning Department along with the applicable review fee.
2. After-the-fact Variance Request: If a variance request follows enforcement proceedings for failure to comply with the District Regulations, the landowner will be required to submit an additional \$200.00 after-the-fact application fee, in addition to the regular variance fee.
3. The Zoning Administrator shall review the application and determine if all applicable and required information is included in the application.
 - a. If the application is missing any applicable or required information, the Zoning Administrator shall notify the applicant in writing and no further action shall be taken on the application.
 - b. The applicant shall submit the required information within thirty days or the application becomes null and void.
 - c. Upon receipt of the required information, the Zoning Administrator shall continue with the review process
4. The Zoning Administrator shall review the application and generate a Staff Report to be submitted to the Board of Adjustment prior to the public hearing.
5. The Board of Adjustment shall review the variance proposal at a formal public hearing. Public comment shall be taken during the public hearing by the Board of Adjustment. All application materials, public comment, staff recommendations and any other applicable information shall be considered by the Board of Adjustment prior to any determination. In making a determination, the Board of Adjustment may place conditions necessary to mitigate impacts to the District goals, review criteria and surrounding area. The Board of Adjustment shall make written findings of fact justifying any variance determination and shall provide the findings to the applicant within fifteen working days.

6. Notice of public hearing shall be published twice in a newspaper of general circulation within the county and mailed to Adjacent Landowner at least fifteen (15) days prior to the public hearing date. Adjoining Landowner mailing shall be certified.
7. Upon receipt of the Findings the applicant may appeal the decision of the Board of Adjustment to the Park County Commission as outlined in Section 76-2-227, MCA.

XIII. ENFORCEMENT, PENALTIES AND AFTER-THE-FACT SIGNS

Whenever a violation of this ordinance occurs or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. The Zoning Administrator shall then properly record the complaint and immediately investigate and take action thereon as provided by this District.

- A. Any sign within the District erected, constructed, reconstructed, altered, repaired, converted or maintained following the adoption of the District and without the required zoning compliance permit will require an After-the-Fact Zoning Compliance Permit, which will include an additional \$200.00 review fee.
- B. If any Sign is erected, constructed, reconstructed, altered, repaired, converted, or maintained in violation of this part or of any resolution adopted under this part, the county, in addition to other remedies, may institute any appropriate action or proceedings to:
 1. Prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
 2. Restrain, correct, or abate a violation;
- C. Upon receipt of information pertaining to a potential sign violation, the Zoning Administrator will investigate the claim and verify nonconformance with the District Regulations. The Zoning Administrator will notify the property owner(s) of the perceived violation and order the sign be removed or require submittal of the proper permits within thirty days of receipt of the formal notification. If the landowner does not comply, the matter will be submitted to the Park County Attorney's Office for continued enforcement proceeding.
- D. Landowner(s) may appeal any enforcement proceeding as outlined under Section 76-2-226 and 76-2-227, MCA.